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DEPT. OF INSURANCE  
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**STATE OF ARIZONA**  
**DEPARTMENT OF INSURANCE**

**In the Matter of:**

) Docket No.: 01A-227-INS

**TRAVELERS INDEMNITY COMPANY OF**

**CONSENT ORDER**

# AMERICA,

NAIC #25666

**Respondent**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Travelers Indemnity Company of America (TIA). The Report of Examination of the Market Conduct Affairs of TIA alleges that TIA violated A.R.S. §§ 20-385, 20-400.01, 20-448, 20-1120, 20-1631, 20-1632, 20-1653, 20-1656, and A.A.C. R20-6-801, and prior Consent Order Docket # 7748, filed May 28, 1992.

TIA wishes to resolve this matter without formal adjudicative proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

## FINDINGS OF FACT

1. TIA is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of TIA. The on-site examination covered the time period from January 1994 to July 1998 and was concluded on June 8, 1998. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Travelers Indemnity Company of America" dated June 8, 1998.

1        3.     The Department previously conducted a market conduct examination of  
2 TIA. The on-site examination was concluded as of November 8, 1991. As a result, a  
3 Consent Order, Docket # 7748, was filed by the Director on May 28, 1992. The  
4 Consent Order stated in part as follows:

5                Respondents shall cease and desist from failing to comply with  
6 orders of the Director, from canceling personal automobile  
7 policies which have been in effect for at least sixty (60) days for  
8 reasons other than those permitted by A.R.S. § 20-1631(B) and  
not complying with the proper notice of refund of unearned  
premium.

9        4.     The Examiners reviewed 51 personal automobile cancellations issued  
10 by the Company during the time frame of the examination and found as follows:

11              a.     TIA cancelled two personal automobile policies after the first 60  
12 day underwriting period.

13              b.     TIA failed to comply with the proper notice of refund of unearned  
14 premiums on seven policies.

15              c.     TIA issued two non-renewal notices for reasons not permitted by  
16 statute.

17              d.     TIA failed to evidence its proof of mailing on three policies.

18              e.     TIA failed to advise the insured of his right to complain to the  
19 Director on three policies.

20        5.     The Examiners reviewed 18 homeowner cancellation/non-renewal  
21 notices issued by the Company during the time frame of the examination and found as  
22 follows:

23              a.     TIA failed to give the facts that constituted the reason for non-  
24 renewal on two policies.

25              b.     TIA failed to evidence its proof of mailing on two policies.



1        6.     The Examiners reviewed 21 first party automobile total loss claims  
2 issued during the time frame of the examination and found that the Company failed to  
3 include the air-quality tax in the final settlement on seven claim files and failed to  
4 include the air-quality tax, city sales tax and license fees on one claim.

5        7.     TIA is a member of the Insurance Service Office ("ISO"), a property and  
6 casualty rating organization duly licensed by the Department to file rates and forms on  
7 behalf of its members. TIA has also independently filed certain rates and forms.  
8 Such rates, rules and forms filed by TIA, or filed on its behalf, are included in this  
9 Order's reference to TIA's filed rates and rules.

10       8.     The Examiners reviewed 28 commercial automobile policies issued  
11 during the time frame of the examination and found as follows:

12           a.     TIA failed to issue two policies within 90 days of the policy  
13 effective date.

14           b.     TIA failed to apply its Schedule Rating Plan/Business  
15 Discretionary Modification (BDM) on 11 policies.

16           c.     TIA used unfiled schedule rating characteristics on five policies.

17           d.     TIA failed to consider the application of the schedule rating plan  
18 on two policies.

19           e.     TIA used a different experience modification than the one  
20 calculated and maintained on two policy files.

21           f.     TIA failed to use the correct experience rating plan on one policy.

22           g.     TIA failed to use the correct entry level for the calculation of  
23 experience rating on one policy.

24           h.     TIA failed to use filed rates (other than "A" rates) on 13 policies.

25           i.     TIA failed to include documentation or adequate documentation

1 for the application of schedule rating or BDM in the premium determination on eight  
2 policies.

3 j. TIA failed to evidence justification of the schedule/BDM credits  
4 used on three policies.

5 k. TIA failed to evidence the calculation of the experience  
6 modification used on four policies.

7 l. TIA applied an undocumented expense reduction on four policies.

8 m. TIA failed to retain or produce premium development worksheets  
9 for premium verification and compliance on six policies.

10 n. TIA issued two renewal policies in a lower rated company without  
11 evidence of justification for the change.

12 o. TIA exceeded its filed individual schedule/BDM risk characteristic  
13 maximums on 13 policies.

14 p. TIA exceeded its total filed plan maximums on one policy.

15 q. TIA applied its discretionary credits in a way that was in conflict  
16 with the filed plan on six policies.

17 r. TIA failed to apply experience rating on four eligible policies.

18 s. TIA failed to use its filed Premium Payment Plan on six policies.

19 t. TIA failed to use correct rating classifications on two policies.

20 9. The Examiners reviewed 13 commercial package policies issued during  
21 the time frame of the examination and found as follows:

22 a. TIA failed to issue three policies within 90 days of the policy  
23 effective date.

24 b. TIA failed to consider the application of the schedule rating plan  
25 on two policies.



1 c. TIA failed to use the correct entry level for the calculation of  
2 experience rating on one policy.

3 d. TIA failed to apply the correct package modifier on two policies.

4 e. TIA applied a package modifier to one policy that was not eligible.

5 f. TIA failed to apply a loss free credit on two policies.

6 g. TIA applied an incorrect loss free credit on one policy.

7 h. TIA applied a loss free credit on one policy that was not eligible.

8 i. TIA failed to use the filed deductible factor on one eligible policy.

9 j. TIA failed to use filed rates on two policies.

10 k. TIA used an "A" rate different than the filed rate on one policy.

11 l. TIA failed to include documentation for the application of  
12 schedule/BDM modifications used in the premium determination of five policies.

13 m. TIA used a different schedule/BDM modification than the one  
14 documented on two policies.

15 n. TIA failed to evidence justification of the schedule/BDM  
16 modification on two policies.

17 o. TIA failed to evidence the calculation of the experience  
18 modification used on four policies.

19 p. TIA failed to document and justify expense reduction credits on  
20 four policies.

21 q. TIA failed to retain or produce premium development worksheets  
22 for premium verification and compliance on five policies.

23 r. TIA issued one renewal policy in a lower rated company without  
24 evidence of justification for the change.

25 s. TIA exceeded its filed individual schedule/BDM risk characteristic

1 maximums on two policies.

2 t. TIA exceeded its total filed plan maximums on three policies.

3 u. TIA applied experience rating on three policies that were not  
4 eligible.

5 v. TIA failed to use its filed Premium Payment Plan on six policies.

6 w. TIA applied unfiled modifications on four policies.

7 x. TIA failed to rate for all coverages or exposures on two policies.

8 y. TIA applied unfiled increase limit factors on five policies.

9 10. TIA's failure to pay insureds for the air-quality tax, city sales tax and  
10 license fees resulted in eight insureds being underpaid a total of \$388.69. TIA's failure  
11 to follow its filed rates and rules resulted in 17 commercial automobile and package  
12 policy insureds being overcharged a total of \$19,109. All refunds for commercial  
13 automobile and package policies have been paid based upon the results of the  
14 Travelers "self audit" on file with the Department and the Company.

#### 15 CONCLUSIONS OF LAW

16 1. TIA violated A.R.S. §20-1631(C) and the 1992 Consent Order by  
17 canceling automobile policies after 60 days and issuing non-renewal notices not valid  
18 by statute.

19 2. TIA violated A.R.S. §20-1632(A) by failing to evidence proof of mailing  
20 on personal automobile policies and by failing to advise the insured of his right to  
21 complain to the Director. Further, TIA violated A.R.S. §20-1632(A) and the 1992  
22 Consent Order by failing to comply with the proper notice of refund and/or unearned  
23 premiums on cancelled policies.

24 3. TIA violated A.R.S. §20-1653 by not providing valid reasons for non-  
25 renewals on homeowner policies.



1           4.       TIA violated A.R.S. §20-1656 by failing to evidence proof of mailing on  
2 homeowner policies.

3           5.       TIA violated A.R.S. §20-1120(B) by failing to issue policies within 90  
4 days of the policy effective date.

5           6.       TIA violated A.A.C. R20-6-801(H)(1)(b) by failing to include the air-  
6 quality tax on first party total loss claims.

7           7.       TIA violated A.R.S. §20-400.01(A) by applying the schedule rating plan  
8 or the Company's BDM when the risks were not eligible; by using unfiled schedule  
9 rating risk characteristics or an unfiled plan; by not considering the application of  
10 schedule rating when the risks were eligible; by using different experience  
11 modifications than the ones calculated; by not using the correct experience rating  
12 plan; by not using the correct loss cost entry level in the calculation of the experience  
13 modification; by not using file rates (other than "A" rates); by not using correct package  
14 modifiers; by applying package modifiers when risks were not eligible; by failing to  
15 apply loss free credits; by applying incorrect loss free credits; by applying loss free  
16 credits when not applicable; by using deductible factors other than the filed ones; and  
17 by using "A" rates that were different than the filed rates.

18          8.       TIA violated A.R.S. §20-400.01(B) by failing to provide any  
19 documentation or inadequate documentation of the schedule rating or BDM  
20 credit/debit factors; by not documenting the justification for changing the  
21 schedule/BDM credits/debits; by not providing documentation of the experience  
22 calculation used; by using schedule rating or BDM credit/debit factors that were  
23 different than what was documented in the policy file.

24          9.       TIA violated A.R.S. §20-400.01(B) and 20-448(C) by applying  
25 undocumented expense reductions.

10. TIA violated A.R.S. §20-400.01(D) by failing to retain premium development documentation.

11. TIA violated A.R.S. §§20-385(A), 20-400.01(A) and 20-448(C) by changing companies on renewal policies without justification.

12. TIA violated A.R.S. §20-400.01(A) and 20-448(C) by exceeding the range of permitted schedule, BDM credit/debits and plan levels; by not applying experience rating when policies were eligible; by using a premium payment plan other than the one filed; by not using correct classifications; by applying experience when the policies were not eligible; by using unfiled modifications; by not rating for all coverages or exposures; and by using unfiled increase limit factors.

13. Grounds exist for the entry of the following Order in accordance with A.R.S. §§20-220 and 20-456.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. TIA shall cease and desist from:

a. Canceling personal automobile policies after the 60-day underwriting period has passed.

b. Failing to comply with the proper notice of refund of unearned premium on cancelled policies.

c. Issuing non-renewal notices on personal automobile and homeowner policies for reasons other than those permitted by statute.

d. Failing to maintain evidence of proof of mailing on cancelled policies.

e. Failing to advise the insured of the right to complain to the Director in the event of the cancellation of personal automobile insurance.



1 f. Failing to include the specific facts that constituted the reason for  
2 non-renewal of homeowner policies.

3 g. Not including the air-quality tax amount in the final settlement of  
4 first party total loss claims.

5 h. Failing to issue policies within 90 days of the policy effective date.

6 i. Applying schedule rating and/or the company's business  
7 discretionary modification (BDM) on commercial risks that are not eligible and not  
8 considering the application of these plans when risks are eligible.

9 j. Using unfiled schedule rating characteristics.

10 k. Applying different experience modification factors than the ones  
11 calculated.

12 l. Failing to apply correct package modifiers or applying modifiers to  
13 ineligible policies.

14 m. Using unfiled rates.

15 n. Failing to include adequate documentation, calculation and  
16 justification of schedule rating, BDM and experience modifications in files.

17 o. Applying undocumented expense reductions.

18 p. Failing to retain or produce premium development worksheets.

19 q. Exceeding maximum credits allowed under the respective rating  
20 plans, whether they're individual characteristics or plan maximums.

21 r. Failing to apply experience rating on eligible policies.

22 s. Using unfiled credits, modifications, factors or plans.

23 t. Not applying loss free credits when they are earned and applying  
24 them when they're not earned.

25 u. Changing companies on renewals to a more deviated company

1 without justification.

2 v. Using incorrect rating classifications.

3 w. Failing to rate for all coverages or exposures.

4 x. Failing to use the filed Premium Payment Plan.

5 2. Within 90 days of the filed date of this Order, TIA shall submit to the Arizona  
6 Department of Insurance, for approval, evidence that the corrections have been  
7 implemented and communicated to the appropriate personnel regarding all of the items  
8 mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence of  
9 corrective action and communication thereof includes, but is not limited to, memos,  
10 bulletins, E-mails, correspondence, procedures manuals, print screens and training  
11 materials.

12 3. Within 90 days of the filed date of this Order, TIA shall pay the insured, claim  
13 number SRE2809, \$376.69, plus interest. Interest shall be calculated at the rate of ten  
14 percent per annum from the date the proof of loss was received to the date of payment.

15 4. The refund identified in Paragraph 3 of the Order section of this Consent  
16 Order shall be accompanied by a letter in a form previously approved by the Director.

17 5. The Department shall be permitted, through authorized representatives, to  
18 verify that TIA has complied with all provisions of this Order.

19 6. TIA shall pay a civil penalty of \$13,000.00 to the Director for deposit in the  
20 State General Fund in accordance with A.R.S. §20-220(B). The civil penalty shall be  
21 provided to the Market Conduct Examinations Section of the Department prior to the  
22 filing of this Order.

23 . . . .

24 . . . .

25 . . . . .



1 7. The Report of Examination of the Market Conduct Affairs of Travelers  
2 Indemnity Company of America as of June 8, 1998, including the letter submitted in  
3 response to the Report of Examination, shall be filed with the Department after the  
4 Director has filed this Order.

5 8. DATED at Phoenix, Arizona this 4<sup>th</sup> day of October,  
6 2001.

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8 Charles R. Cohen  
9 Director of Insurance  
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**CONSENT TO ORDER**

1. Travelers Indemnity Company of America has reviewed the foregoing Order.

2. Travelers Indemnity Company of America admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. Travelers Indemnity Company of America is aware of the right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Travelers Indemnity Company of America irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.

4. Travelers Indemnity Company of America states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Travelers Indemnity Company of America acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. John R. Nealon, who holds the office of Assistant Secretary of Travelers Indemnity Company of America, is authorized to enter into this Order for it and on its behalf.

September 27, 2001  
(Date)

**Travelers Indemnity Company of America**  
By John R. Nealon  
(Company)



1 **COPY of the foregoing mailed/delivered**  
2 **this** 10th **day of** October **, 2001, to:**

3  
4 Sarah Begley  
5 Deputy Director  
6 Mary Butterfield  
7 Assistant Director  
8 Consumer Affairs Division  
9 Paul J. Hogan  
10 Chief Market Conduct Examiner  
11 Market Conduct Section  
12 Deloris E. Williamson  
13 Assistant Director  
14 Rates & Regulations Division  
15 Steve Ferguson  
16 Assistant Director  
17 Financial Affairs Division  
18 Alexandra Shafer  
19 Assistant Director  
20 Life and Health Division  
21 Nancy House  
22 Chief Financial Examiner  
23 Terry L. Cooper  
24 Fraud Unit Chief  
25

16  
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20 Travelers Indemnity Company of America  
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